

### REMARKS / ARGUMENTS

Claims 1-38 are currently pending in this application, and claims 39-75 have been withdrawn by the Examiner pursuant to applicants' previous election. Applicants hereby confirm the prior election claims 1-38, with traverse. The traversal of the restriction requirement is based on the following remarks.

In the Official Action of October 31, 2005, restriction was required among the following groups of claims:

- I. Claims 1-38, drawn to an elastic assembly having a single elastic layer and a garment comprising the same, classified in class 604, subclass 385.29.
- II. Claims 39-57, drawn to a garment comprising an elastic assembly having multiple elastic layers, classified in class 604, subclass 385.24.
- III. Class 58-75, drawn to a method of forming an elastic assembly, classified in class 156, subclass 160.

The Examiner states that the inventions of groups I and II are related as a combination and subcombination. In particular, the Examiner states that the combination does not require a unitary elastic layer having a central inelastic portion. In addition, the Examiner states that the subcombination may be used without a second elastic layer. Finally, the examiner states that the inventions of groups I and II are classified differently, and therefore require a separate search.

Although there are differences in claim scope between the inventions of groups I and II, applicants note that the inventions of both groups contain single elastic layers, differing in the number of elastic portions within the layer. Moreover, and notwithstanding these differences, applicants note that the inventions of groups I and II are both located in class 604. Accordingly, both of the alleged different inventions can be conveniently found in one search location, which would represent an economy of effort on the part of applicants as well as the USPTO if the restriction requirement is modified as provided herein.

Claims 1-5, 8-12 and 18 have been rejected under 35 USC 103 (a) as being obvious over Migaku et al (GB 2,118,021A). This ground of rejection is traversed.

The Examiner states, in effect, that Migaku et al. teaches an elastic assembly for absorbent garments comprising first and second carrier layers, an elastic layer attached to the carrier layers having generally parallel elastic strands, the elastic strands being coated with an adhesive for attachment to the carrier layers. The Examiner acknowledges that the reference is silent regarding particular details of the strands, but claims that these are result-specific variables within the skill of an artisan.

Migaku et al. describes the introduction of an elastic member within the respective side flaps of a garment formed by portions of a water impervious back sheet and a water pervious top sheet. These flaps extend beyond the opposite outer edges of the absorbent body. This particular construction has been attempted before in the prior art, but has been found inadequate at providing comfort and fit to the wearer, or having acceptable breathability characteristics.

In the present invention, the elastic assembly of the garment is provided with an elastic layer disposed between the first carrier layer and the second carrier layer. The first carrier layer and the second carrier layer, as presently claimed, are formed from non-woven materials which are gas pervious. The claims have been amended to reflect this feature, antecedent support for which is found on page 18 of the specification. The present elastic assembly construction provides a comfortable fit, and acceptable gas permeability to improve the breathability of the garment.

Claims 1, 13-16, 19-36 and 38 stand rejected under 35 USC 103 (a) as being obvious over VanGompel et al. (US 6,336,922) in view of Migaku et al. This ground of rejection is also traversed.

VanGompel et al. teaches a fit panel construction on the chassis region of the diaper. The fit panel is provided with a bridge panel and side panels having respective zones of elasticity. In the VanGompel et al. absorbent garment construction, the fit panel is attached to the chassis top sheet and is in direct contact with the body of the wearer. In contrast, the present invention utilizes a cloth-like elastic assembly in the diaper, thereby making the diaper aesthetically desirable, comfortable and good fitting.

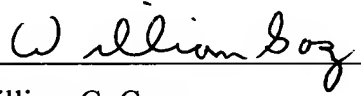
The applicants acknowledge, with appreciation, the allowance of claims 17 and 37. The embodiments of these claims have now been incorporated into claims 13 and 33,

respectively, and these claims are therefore allowable based on the Examiner's reasoning as applied to the canceled claims.

Accordingly, the present application is now believed to overcome the remaining rejections, and to be in proper condition for allowance. Reconsideration and withdrawal of the rejections, and allowance of this application, are therefore respectfully solicited. The Examiner is invited to contact the undersigned at the telephone number listed below to facilitate the continued prosecution of this application.

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Respectfully submitted,

  
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